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9	UNITED STATES D	
10	FOR THE NORTHERN DIS	TRICT OF CALIFORNIA
11	LEILANI JIMENEZ, individually, and as) Case No.:
12	successor-in-interest for Decedent DENNIS)) <u>COMPLAINT FOR DAMAGES</u>
13	JIMENEZ; J.J., a minor, by and through his guardian ad litem Leilani Jimenez; D.J., a	(42 U.S.C. § 1983 and pendent tort
	minor, by and through her guardian ad litem Leilani Jimenez, and DENNIS JIMENEZ, Jr.	claims)
14	an individual,	JURY TRIAL DEMANDED
15	Plaintiffs,))
16	v.))
17))
18	COUNTY OF ALAMEDA, a municipal corporation and DOES 1-50, individually,))
19	inclusive;))
20	Defendants.))
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28	INTRODU	CTION
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1. These claims arise out of the wrongful death of DENNIS JIMENEZ on September 1, 2012. Defendant COUNTY OF ALAMEDA, Santa Rita Jail facility employees negligently, and with deliberate indifference, failed to monitor Mr. Jimenez, despite being aware of his multiple recent suicide attempts while in custody at the Santa Rita Jail facility.

JURISDICTION

2. This action arises under Title 42 of the United States Code, Section 1983. Title 28 of the United States Code, Sections 1331 and 1343 confer jurisdiction upon this Court. The unlawful acts and practices alleged herein occurred in the City of Dublin, County of Alameda, California, which is within this judicial district.

PARTIES

- 3. Decedent, DENNIS JIMENEZ, died while under the negligent supervision and deliberate indifference of Defendant County of Alameda employees. Decedent was married at the time of death and died without leaving a will. Decedent had three children. This action seeks to recover damages for the violation of rights personal to Decedent. This action is maintained on behalf of Decedent, and by his successors in interest, his spouse LEILANI JIMENEZ, his biological, minor children J.J., D.J. and his biological son DENNIS JIMENEZ JR. Said plaintiffs are persons with standing to bring the action pursuant to California Code of Civil Procedure Sections 377.30.and 377.60 and California Probate Code Section 6402.
- 4. Plaintiff, LEILANI JIMENEZ, is now and at all times mentioned herein a United States Citizen. Plaintiff is the widow of and successor-in-interest to Decedent DENNIS JIMENEZ. At all times mentioned herein Plaintiff LEILANI JIMENEZ was married to Decedent DENNIS JIMENEZ, and is also the mother of Plaintiffs J.J. and D.J. who are the natural born children of Decedent DENNIS JIMENEZ. She brings this action on her own behalf, as

successor-in-interest to her husband, Decedent DENNIS JIMENEZ and on behalf of Minor Plaintiffs J.J. and D.J. as their Guardian Ad Litem.

- 5. Minor Plaintiff J.J. is the son of Decedent DENNIS JIMENEZ and Plaintiff LEILANI JIMENEZ. He is being represented in this action by his Guardian Ad Litem, Leilani Jimenez.
- 6. Minor Plaintiff D.J. is the daughter of Decedent DENNIS
 JIMENEZ and Plaintiff LEILANI JIMENEZ. She is being represented in this
 action by her Guardian Ad Litem, Leilani Jimenez.
- 7. Plaintiff DENNIS JIMENEZ JR., is at all times mentioned herein, a competent adult and a United States Citizen. He is the biological son of Decedent DENNIS JIMENEZ and he is suing in his individual capacity.
- 8. Defendant COUNTY OF ALAMEDA (Hereinafter "COUNTY") is, and at all times herein mentioned, a municipal entity duly organized and existing under the laws of the State of California. Under its authority, the COUNTY OF ALAMEDA operates the Santa Rita Jail Facility.
- 9. Plaintiffs are ignorant of the true names and/or capacities of Defendants sued herein as DOES 1 through 100, inclusive, and therefore sue said Defendants by such fictitious names. Plaintiffs will amend this complaint to allege their true names and capacities when ascertained. Plaintiffs believe and allege that each of the DOE defendants is legally responsible in some manner for the injuries and damages sustained by Plaintiffs as set forth herein. Each Defendant proximately caused injuries and damages because of their actions, inaction, negligence, breach of duty, negligent supervision, management or control, violation of public policy, false arrests and unlawful use of force. Each Defendant is liable for his/her personal conduct, vicarious or imputed negligence, fault, or breach of duty, whether severally or jointly, or whether based upon agency, employment, ownership, entrustment, custody, care or control or upon any other act or omission. Plaintiffs will ask leave to amend this complaint subject to further discovery.
- 10. In doing the acts alleged herein, Defendants, and each of them acted within the course and scope of their employment.

- 11. In doing the acts and/or omissions alleged herein, Defendants, and each of them, acted under color of authority and/or under color of law.
- 12. Due to the acts and/or omissions alleged herein, Defendants, and each of them, acted as the agent, servant, and employee and/or in concert with each of said other Defendants herein.
- 13. For State causes of action related to Federal claims, Plaintiffs are required to comply with an administrative claim requirement under California law. Plaintiffs have complied with all applicable requirements.

FACTS

- 14. On September 1, 2012, at approximately 1:30 p.m. Decedent, DENNIS JIMENEZ was at the Santa Rita Jail Facility, in Dublin, California. Mr. Jimenez was incarcerated on March 11, 2012 and remained in the custody of Defendant COUNTY OF ALAMEDA until September 1, 2012.
- 15. On August 9, 2012, while in the custody of the Santa Rita Jail Facility, Mr. Jimenez attempted to commit suicide in his jail cell, by cutting his wrists. Three days later, on August 12, 2012, Mr. Jimenez attempted to commit suicide by fashioning a bed sheet into a makeshift noose and hanging himself from his jail cell. Despite being aware of Mr. Jimenez's two recent suicide attempts, including an attempt to hang himself with a bed sheet, jail staff negligently, in deliberate indifference to his Constitutional rights, placed him back in a cell with a bed sheet. Defendants at the time were on notice that Decedent was suicidal and had on multiple recent occasions attempted to commit suicide while in their custody. Defendants were also aware at the time they placed Decedent alone in a jail cell with bed sheet, unmonitored for significant periods of time, that bed sheets can and have been used to commit suicide by hanging in jail cells, including on previous occasions at jails run by Defendant COUNTY, including Santa Rita Jail. As noted, this is the exact method by which Mr. Jiminez had recently, less than three weeks prior to this death, attempted suicide while in custody of Defendant COUNTY, at the very same facility.

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- 16. On September 1, 2012, jail staff found Mr. Jimenez in his cell, hanging from a makeshift noose made out of a bed sheet.
- 17. Jail employees knew that Mr. Jimenez was at a high risk for committing suicide, nevertheless, they still placed him back into a cell with the very same means to harm himself as he attempted to use previously and then left him unattended and gave him ample time to harm himself.
- 18. Mr. Jimenez was pronounced dead on September 1, 2012 at 2:45 p.m. Decedent leaves behind his wife and three children.

DAMAGES

- 19. As a consequence of Defendants' violation of Plaintiffs' federal civil rights under 42 U.S.C. §1983 and the Fourteenth Amendment, Plaintiffs were mentally, and emotionally injured and damaged as a proximate result of Decedent's wrongful death, including but not limited to: Plaintiffs' loss of familial relations, Decedent's society, comfort, protection, companionship, love, affection, solace, and moral support.
- 20. Plaintiffs are entitled to recover wrongful death damages pursuant to C.C.P. Sections 377.60 and 377.61 and Probate Code Section 6402(b). Additionally, Plaintiffs are entitled to the reasonable value of funeral and burial expenses pursuant to C.C.P. §§ 377.60 and 377.61.
- 21. Plaintiffs are entitled to recover damages pursuant to their right of survivorship for the pain and suffering they endured because of violations of their civil rights.
- 22. Defendants' intentional and/or negligent conduct proximately deprived Plaintiffs of Decedent's support.
- 23. Plaintiffs' found it necessary to engage the services of private counsel to vindicate the rights of Decedent and Plaintiffs' rights under the law. Plaintiffs are therefore entitled to an award of attorneys' fees and/or costs pursuant to statute(s) in the event that they are the prevailing parties in this action under 42 U.S.C. § 1983, 1985-86 and 1988.

FIRST CAUSE OF ACTION

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

(Wrongful Death - 42 U.S.C. §1983)

- 25. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 24 of this Complaint.
- 26. As set forth above, Plaintiffs were subjected to deprivation of rights by Defendants DOES 1-50, inclusive, acting under color of law of the United States and State of California and of the County of Alameda which rights include, but are not limited to, privileges and immunities secured to Plaintiffs by the Constitution and laws of the United States. By reason of the aforementioned acts, these Defendants, have violated the constitutional rights and liberty interests of Decedent DENNIS JIMENEZ, including those provided in the Eighth and Fourteenth Amendments to the U.S. Constitution and each Plaintiff, as well as those which are protected under the Fourth and Fourteenth Amendment's prohibition against depriving a person of a right to familial relationships without due process of law.
- 27. Defendants DOES 1 through 50 knew or should have known of Decedent DENNIS JIMENEZ'S serious medical, physical and mental health condition, particularly that he had attempted to commit suicide three weeks prior to his death, were deliberately indifferent to them, ignored them failed to provide medical or mental health intervention and care for him.
- 28. Defendants knew that DENNIS JIMENEZ was suffering from a mental disability and was a high-risk candidate for suicide. Nevertheless, Defendants ignored his clear need for medical and mental health care, and failed to engage in adequate welfare checks.
- 29. Defendants knew and/or had reason to know, that DENNIS JIMENEZ had serious but treatable mental health condition that required care and treatment. As a result of Defendants' deliberate indifference, DENNIS JIMENEZ was deprived of the necessary and indicated medical intervention, care and treatment. Without proper treatment or follow-up care, his mental state deteriorated, causing him to continue to suffer pain and mental anguish in violation of his Eighth and Fourteenth Amendment rights resulting in his wrongful death.

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2	SECOND CAUSE OF ACTION	
3	(Violations of Plaintiffs' Right to Familial Relationship - 42 U.S.C. § 1983)	
4	(Plaintiffs LEILANI JIMENEZ, J.J., D.J., and DENNIS JIMENEZ, Jr., Against	
5	Defendants and DOES 1-50)	
	30. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1	
6	through 29 of this Complaint as though fully set forth;	
7	31. As a legal cause of Defendants, acting under color of law, acts and/or	
8	inactions, Plaintiffs were deprived of their constitutional rights to a familial relationship,	
9	and whose deliberate indifference caused injuries which resulted in decedent's death, all in	
10	violation of rights, privileges, and immunities secured by the Fourth and Fourteenth	
11	Amendments to the United States Constitution.	
12	32. Defendants attempted to conceal their actions and hide the true cause of	
13	Decedent's demise to deprive Plaintiffs of their right to seek redress, all in violation of	
	rights, privileges, and immunities secured by the First, Fourth, and Fourteenth	
14	Amendments to the United States Constitution.	
15	33. Defendants' conduct deprived Plaintiffs, decedent's wife and children, of	
16	their right to a relation with their husband and father, respectively. Defendants' failure to	
17	monitor decedent caused his injuries, which resulted in decedent's death.	
18	WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.	
19	WIEREFORE, Flamith's play for feller as heremarter set forth.	
20	THIRD CAUSE OF ACTION	
21	(Monell- 42 U.S.C. § 1983)	
22	(Plaintiffs LEILANI JIMENEZ, J.J., D.J., and DENNIS JIMENEZ, Jr., Against	
23	Defendants COUNTY and DOES 1-50)	
	34. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs	
24	1 through 22 of this Complaint	
25	1 through 33 of this Complaint.	
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- 35. The aforementioned acts and/or omissions of the Defendants COUNTY, and DOES 1-50 in being deliberately indifferent to Decedent DENNIS JIMENEZ's serious medical needs and safety and violating his civil rights were the direct and proximate result of customs, practices and policies of Defendant COUNTY and DOES 1 through 50, as alleged herein.
- 36. At all times herein mentioned, Defendants COUNTY and DOES 1 through 50 maintained a policy or de facto unconstitutional informal custom or practice of permitting, ignoring and condoning, Jail personnel to delay in providing adequate mental health and medical assistance for the protection of the health or safety of inmates; failing to properly observe and treat inmates, including inadequate: intake and screening and evaluation, diagnosis, referral to mental health professionals, treatment plans, administration of delivery of medications, medical record keeping, staffing, communication between medical, mental health and custodial staff, housing, supervision, access to mental and medical health care, failure to supervise, lax supervision, failure to report, investigate, and reprimand Jail personnel wrongful conduct
- 37. Plaintiffs allege that Defendant COUNTY maintained a policy, custom or practice of failing to provide adequate staff in the Jail causing a failure to properly monitor the inmates.
- 38. Plaintiffs allege that Defendant COUNTY maintained a policy, custom or practice of failing to provide the Jail with adequate mental health personnel.

- 39. Each policy, custom or practice posed a substantial risk of serious harm to Decedent JIMENEZ and Defendant COUNTY knew, or should have known, its policy posed this risk.
- 40. Plaintiffs are further informed and believe and thereon allege that as a result of the deliberate indifference, reckless and/or conscious disregard of the misconduct by Defendant DOES 1-50, and/or each of them, Defendant COUNTY, DOES 1-50, and/or each of them, encouraged the Jail personnel to continue their course of deliberate indifference and caused this lack of training in Jail personnel, resulting in the violation of the Plaintiffs' rights as alleged herein.
- 41. The aforementioned acts and/or omissions and/or deliberate indifference by high ranking ALAMEDA COUNTY officials, including high ranking ALAMEDA COUNTY Sheriff's Department Supervisors, DOES 1-50, and each of them resulted in the deprivation of Plaintiffs' constitutional rights. These customs, practices or policies were the legal cause of Plaintiffs' injuries, and each individual Defendant acting in accord with this custom, policy or practice acted with deliberate indifference to the needs of persons such as Decedent DENNIS JIMENEZ, who was in the custody and care of Defendants.
- 46. Said rights are substantive guarantees under the Fourth, Eighth, and/or Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

FOURTH CAUSE OF ACTION
(Wrongful Death - Negligence)
(C.C.P. §377.60 and 377.61)

WHEREFORE, plaintiffs pray for relief, as follows:

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1	1. For general damages in a sum to be determined according to proof;	
2	2. For special damages, including but not limited to, past, present and/or future	
3	wage loss, income and support, medical expenses and other special damages in a sum to be	
4	determined according to proof;	
5	3. For funeral and burial expenses according to proof;	
6 7	4. For punitive damages and exemplary damages in amounts to be determined	
8	according to proof as to Defendants and/or DOES 1 through 50 and/or each of them;	
9	5. For reasonable attorney's fees pursuant to 42 U.S.C. §1988;	
10	6. For cost of suit herein incurred.	
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12	LAW OFFICES OF JOHN L. BURRIS	
13	Dated: October 4, 2013 /s/ Ben Nisenbaum, Esq.	
14	Benjamin Nisenbaum,	
15	Attorney for the Plaintiffs	
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